

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

CERTIFIED MAIL

DATE: SEP 13 1994

EMPLOYER IDENTIFICATION NUMBER:

FORM NUMBER:

1120

TAX YEARS:

KEY DISTRICT:

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

Dear Sirs:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

Based on the information shown on your application for exempt status, we have determined that you are not organized and operated exclusively for religious, charitable, educational or scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

[REDACTED]

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We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[REDACTED]  
Associate Chief

✓cc:

[REDACTED]

Internal Revenue Service

Department of the Treasury

District  
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

CERTIFIED

Date: NOV 23 1983

Dear Applicant

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED], under the nonprofit corporation laws of the State of [REDACTED].

The following purpose appears in your Articles of Incorporation.

"To conduct and carry on the work of the corporation not for profit but exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, in such manner that no part of its income or property shall inure to the private benefit of any donor, incorporator, director, officer, or individual having a personal or private interest in the activities of the corporation, or to the benefit of any member of the family of or any corporation controlled, directly or indirectly, engage in carrying on propaganda or attempting to influence legislation or intervene in any political campaign on behalf of any candidate for public office."

The only activity of your organization is to publish, distribute and diffuse the divinely inspired writings, video tapes, and audio tapes of [REDACTED]. In your first year ending [REDACTED], you published and distributed [REDACTED] books, [REDACTED] video tapes, and [REDACTED] audio tapes.

The actual printing was handled by a local printing company. The desk top publishing computer work provided under a verbal contract by [REDACTED]. [REDACTED], a company owned by [REDACTED] founder/president of [REDACTED], was paid \$[REDACTED] to provide additional services. The construction firm hired [REDACTED] individuals just for [REDACTED]' use at \$[REDACTED] a hour to do order taking, processing, and shipping (to national and international markets). [REDACTED] was also provided with warehouse space, and an additional worker to unload and store books, and keep inventory at \$[REDACTED] a hour (the market rate).

You state that charges are determined by the actual cost of producing the books, tapes, videos, etc. In [REDACTED], your gross sales (\$[REDACTED]) almost quadrupled your cost of goods sold (\$[REDACTED]). After other expenses, you had a profit of \$[REDACTED]. See exhibit A.

You offer discounts of [REDACTED]% to bookstore and religious denominations, and book and tape ministries special pricing on videos plus [REDACTED]% discount on books. The discounts in [REDACTED] totalled \$[REDACTED]. The organization states that it donates books to prison ministers, prisoners, and people in need. The total amount of books donated in [REDACTED] was \$[REDACTED].

You advertised your publications though brochures, flyers, newsletters, mailings, and displays at conferences. In [REDACTED], a mailing was sent to [REDACTED] Christian bookstores. Your officers also attended over [REDACTED] conferences sponsored by various groups established to provide the U.S. with literature related to spiritual growth. Your members set up displays at each appearance [REDACTED] was invited to speak.

You distributed to [REDACTED] bookstores and centers located in the U.S., and twelve international book distributors located in Africa, Sweden, Portugal, Germany, Australia, Philippines, and locations in Canada and England. You also state that you send the original handwritten journals, which are in English to be translated and published in print form in Italian, French, German, Spanish, Portuguese, Croatian, Polish, and soon in Greek, Danish, Russian, and Japanese. These journals are translated and published by publishers in these countries. The English print edition is being published in Ireland and is distributed by [REDACTED] in New York and by [REDACTED] in New Jersey.

[REDACTED] owns the copyrights to all the writings and does not receive royalties. You state that she believes she must maintain copyrights to protect the integrity of the messages.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. U.S., 326 U.S. 279 (1945) the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly educational purposes". This statement applies equally to any category of charitable purposes under Section 501(c)(3) of the Code.

In Scripture Press Foundation V. United States, 285 F.2d 800(1961), the court ruled that a foundation whose primary purpose was the publication and sale of religious literature did not qualify for exemption under section 501(c)(3). These sales activities constituted the conduct of a trade or business for profit.

In Fides Publishers Association V. United States, 263 F. supp. 924 (1967), the court decided that an independent publishing firm whose purpose was to educate the lay apostolate in religious matters, was not operated exclusively for an exempt purpose where its sole activity was the publication and sale of religious literature at a profit.

As in the Better Business court case, your organization is engaged in a non-educational purpose that will preclude exemption. Your sales activities are not only substantial in nature but preponderant. Your organization is similar to the organization in the Scripture Press court case. In this case, the sale of religious literature was the primary activity of the organization. The sale of religious inspired materials involved the organization directly in the conduct of a trade or business for profit. Your primary and only activity is selling the books, videos and tapes by [REDACTED]. In the third court case, Fides Publishers Association, the existence of an operating profit and a commercial pricing pattern standard for the book publishing industry was held not to be exempt. Your organization has set up a pricing pattern similar to the industry including wholesale discounts. The material you sell has a commercial market and is distributed worldwide. You are in direct competition with commercial enterprises selling the same material. You have spent a substantial amount of money promoting the sale of the materials through mass mailings, displays, brochures, flyers, etc. Your charitable donation of books totalled \$[REDACTED] out of net sales of \$[REDACTED] is an insubstantial activity.

Your publishing activity, which is your primary purpose and principle activity, is carried on for the production of income from the sale of goods. You are conducting a trade or business without a significant charitable, educational or religious activity which precludes exemption under Section 501(c)(3) of Code.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

  
District Director

Enclosures:  
Publication 892  
Form 6018